

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

New claim 15 has been added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-3 and 5-15 are now pending in this application.

### Claim Objections

Claims 1 and 2 are objected to for containing informalities. Applicant respectfully submits that the amendments to the claims render these objections moot. Reconsideration and withdrawal of these objection is respectfully requested.

### Rejection under 35 U.S.C. § 102

Claims 1-3, 5-7, and 14 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,572,766 to Dimitriou (hereafter "Dimitriou"). This rejection is respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP § 2131.

Amended claim 1 recites a heat exchanger comprising a plurality disks, wherein the plurality of disks includes at least two adjacent disks defining an intermediate space through which a heat exchanger medium or a second medium to be cooled or to be heated can flow, wherein an entry and/or exit region for the heat exchanger medium and/or second medium is expanded at least on a discharge side or inflow side of a radiator, wherein an opening for the second medium is located in an end region of the disks, wherein the opening for the second medium extends essentially over an entire surface of the end region, except for edge regions

and regions of the disks in which passages are arranged, wherein heat exchanger medium passages are located in the end region of the disks so that the heat exchanger medium passages are offset in an axial direction of the disks from the opening for the second medium and are located further inward from an end of the disks than the opening for the second medium, wherein at least a portion of the heat exchanger medium passages is located behind at least a portion of the opening for the second medium when a respective disk is viewed in a plane of the respective disk along a longitudinal axis of the respective disk and in a direction extending from an end of the disk where the end region is located to an opposite end of the respective disk. Claims 2, 3, 5-7, and 14 depend from claim 1.

The Office argues on page 2 of the Office Action that Dimitriou discloses a heat exchanger that includes an opening for a second medium and heat exchanger passages in an end region of a disk, citing the fluid inlet 24 and openings 32, 33 shown in Figure 3 of Dimitriou. However, Dimitriou does not disclose a heat exchanger with the structure recited in claim 1.

For example, as shown in the enclosed annotated copy of Figure 3, Dimitriou does not disclose a heat exchanger, wherein at least a portion of the heat exchanger medium passages is located behind at least a portion of the opening for the second medium when a respective disk is viewed in a plane of the respective disk along a longitudinal axis of the respective disk and in a direction extending from an end of the disk where the end region is located to an opposite end of the respective disk, as recited in claim 1. As indicated by the dashed arrow D in the annotated copy of Figure 3 of Dimitriou, when the heat exchanger of Dimitriou is viewed in a plane along a longitudinal axis and in a direction extending from an end of the heat exchanger where an end region is located to an opposite end of the heat exchanger of Dimitriou, the openings 32 and 33 are not arranged such that at least a portion of the openings 32, 33 is located behind at least a portion of the fluid inlet 24, as recited in claim 1. Instead, openings 32 and 33 are arranged to the side of the fluid inlet 24 when the heat exchanger is viewed in this direction.

For at least the reasons discussed above, Dimitriou does not anticipate claims 1-3, 5-7, and 14 because Dimitriou fails to disclose all of the features of claim 1. Reconsideration and withdrawal of this rejection is respectfully requested.

**Rejections under 35 U.S.C. § 103**

**Claim 13**

Claim 13 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Dimitriou. This rejection is respectfully traversed. As discussed above, Dimitriou fails to disclose or suggest all of the features of independent claim 1, from which claim 13 depends. Furthermore, Dimitriou does not disclose or suggest a heat exchanger that is a charge air cooler or an oil cooler, as noted by the Office on page 3 of the Office Action. Reconsideration and withdrawal of this rejection is respectfully requested.

**Claims 8-12**

Claims 8-12 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Dimitriou in view of U.S. Patent No. 5,230,966 to Voss *et al.* (hereafter "Voss"). This rejection is respectfully traversed. Voss fails to remedy the deficiencies of Dimitriou discussed above in regard to independent claim 1, from which claims 8-12 depend. Reconsideration and withdrawal of this rejection is respectfully requested.

**New Claim**

New claim 15 has been added. Claim 15 depends from claim 1 and is allowable over the prior art for at least the reasons discussed above and for its respective additional recitations.

**CONCLUSION**

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the

Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 4/22/09

By P.D.S.

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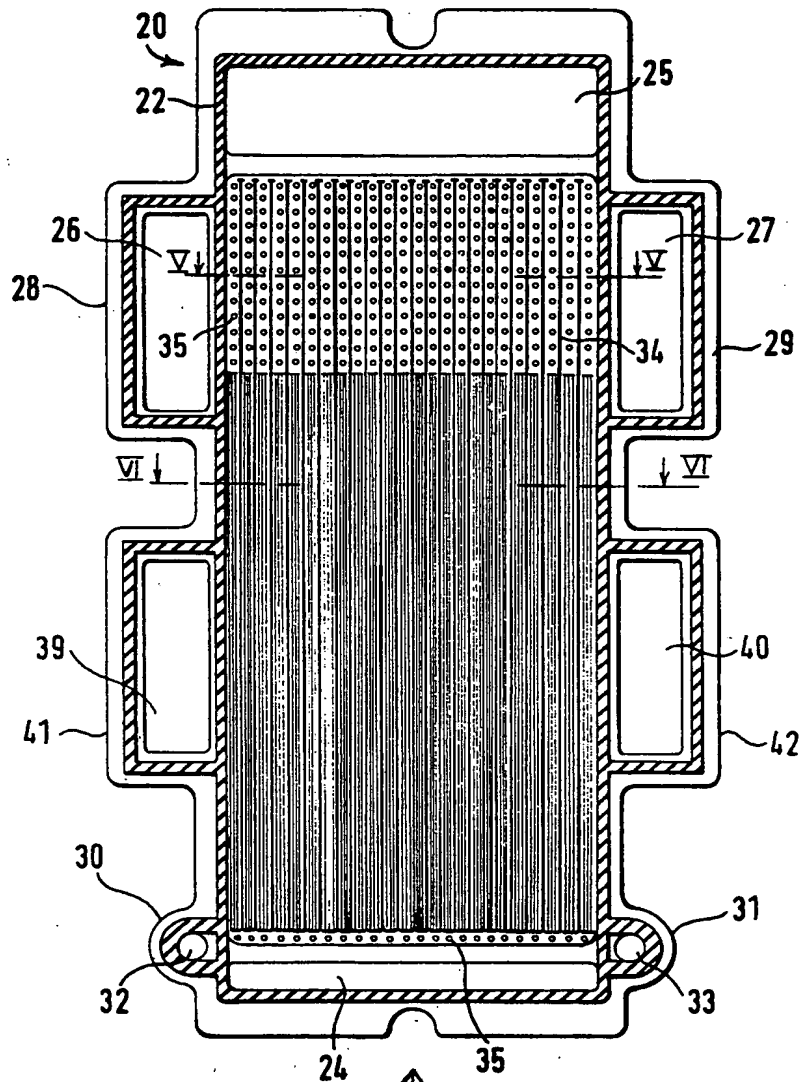


FIG. 3